

OPINION
56-197

August 15, 1956 (OPINION)

TAXATION

RE: Delinquent - Set Off Against Corporation

We are in receipt of your letter of August 10, 1956, in which you request an opinion on Chapter 321 of the 1955 Session Laws.

You state that a corporation has a claim against a county and that a person to whom you refer as a partner, and which we assume is a stockholder, is individually delinquent in his taxes. You wish to know whether it is permissible to make a deduction from the warrant payable to the corporation to meet this delinquency.

Since a corporation is a separate and distinct legal entity it is our opinion that such a deduction would not be permissible. As it is said in 18 C.J.S. 371 "* * * it is well settled that the real and personal property, including choses in action, conveyed to, or acquired by, a corporation are in law the property of the corporation as a legal entity, in the same sense as a natural person owns property, and are not in any sense the property of its members or stockholders."

The claim in question is a chose in action which belongs to the corporation and an individual stockholder has no such legal interest in the claim as would permit the procedure contemplated.

LESLIE BURGUM

Attorney General